REMARKS

Applicant hereby requests further consideration of the application in view of the amendments above and the comments that follow. Claims 1-47 are pending in the application but stand rejected as being obvious over two or more cited references. Applicant respectfully disagrees and will address these rejections below. This response is submitted within two-months of the mailing date of the Final Action.

Applicant acknowledges, with appreciation, the Examiner's withdrawal of the previous rejections in view of arguments filed in the last response.

I. The New Ground of Rejections

A. The Rejections Based on Seymour and Bell

The Action rejects Claims 1-4, 8, 10, 13, 15-20, 22, 26-30, 34-36 and 43-46 as being obvious over US2004/0239582 to Seymour ("Seymour") in view of US 2005/0062410 to Bell et al. ("Bell"). The Action states that Seymour teaches the use of two displays that present text/visual data concurrently. The Action concedes that Seymour fails to teach that the presentation is to a portable communications device or that one of the first and second displays presents an operating interface with user selectable menu items (Action, p. 3). However, the Action states that Bell discloses a portable communications device with a plurality of displays (10, 20), wherein one of the displays can present an operating interface desktop. The Action alleges that, since Bell teaches a PDA, which includes normal operations, an operating interface desktop is included (citing to ¶¶ 88, 4, 5, and 18 in support of this statement). Thus, the Action opines that it would have been obvious to present text and visual data to two overlapping displays as taught by Seymour with the multi-level display PDA taught by Bell "in order to provide an enlarged display area of PDA type devices without a detrimental loss in display brightness." Applicant respectfully disagrees.

Seymour proposes a multi-focal plane information display. Seymour is directed to enhancing information that a user can extract from displays (for memory retention, etc.. (*see,* ¶ 17)) based on a premise of how humans process visual information (¶ 18). Bell proposes a

PDA with two screens. Bell is primarily directed to ways to illuminate screens with an "at least partially emissive layer" **21** between first and second display screens **10, 20**, respectively (Abstract). Bell also notes battery power consumption issues (¶¶ 19, 89) and heating concerns (¶ 0144) when using two displays with a PDA as well as a loss in display brightness (¶ 0019).

The Action alleges that one of skill in the art would have combined the method of presenting text and visual data to two overlapping displays as taught by Seymour with the multi-layer PDA of Bell in order to "provide an enlarged display area of PDA type devices without a detrimental loss in display brightness" (Action, p. 4). Applicant respectfully disagrees. Indeed, the claimed combination may occlude visibility of at least some portions of the two displays as the overlapping displays may be more cluttered and/or may impede display brightness from the underneath display and because the top display resides thereabove with a different visual presentation of information.

Rather, Applicant respectfully submits that one of skill in the art would not have been motivated to combine Bell with the teachings of Seymour, which illustrates an open display with the two displays, each open to the environment and where heating is likely at most a minor issue and in a device with substantially no common operative functions. Such common operative functions include, *e.g.*, downloading, streaming, constant "on" during longer periods of use, with associated power consumption and heat issues. Further, Applicant respectfully submits that neither Bell nor Seymour teach or suggest the claimed operational features.

Bell notes that space constraints have led to the incorporation of touch screens as a means of combining both data entry and data display (¶ 4). The Action states that Bell states that text and/or visual data can be presented (¶ 101). However, this paragraph states that "[r]estricting the light emission in this manner ensures regions of text or graphics on the rearward screen (10) do not align directly with light emitted directly from the emissive display (21) through the front display (20) to a viewer with a corresponding reduction in contrast and graying/fading of tones." Applicant was unable to find any description that text or visual data can be presented differently on (or interactively between) the displays, nor that

one can be used to navigate content on the other (as shown for example, in Figures 2, 4, 6 and 8 of the instant application).

When employing two overlying displays rather than side-by-side displays, a user can have the same eye (or head) position at the same point and use focal point or focal depth to adjust in the z-axis in principle similar to a "heads-up" display. In contrast, when moving eye view from one side to another, focal point and orientation may be disturbed, *i.e.*, such as in an action of an event. In some embodiments, one layer of the display can be substantially static while the other display can be dynamic to move, highlight, emphasize, project, inform, and the like, all the while allowing a user to alter focal depth as desired without requiring side-side movement between side-by-side displays.

Claim 1 is restated here for ease of discussion.

> 1. A method for providing text and/or visual data to a display system of a portable communications device, comprising:
> presenting text and/or visual data on a first display; ~~and~~
> presenting a different visual presentation of text and/or visual data substantially concurrently on a second display underlying the first display, such that the second display is a further distance away from an eye of a user than the first display, wherein, in operation, a user is able to view data on the first and/or second display, and wherein one of the first and second displays is configured to present an operating interface desktop with user selectable menu items, and electronically selecting a feature, text or indicia using the first display within content of an application on the second display to navigate.

Applicant respectfully submits that, even combined, the cited references fail to teach or suggest at least the emphasized features in Claim 1 and submits that Claim 1 is patentable over the cited prior art. Support for this feature can be found, for example, in Figures 2, 4, 6 and 8 of the instant application.

Claim 2

Applicant respectfully submits that Claim 2 is also patentable over the cited

references, as even combined the references fail to teach or suggest providing contrast and 3D effect to a user using the first and second displays so that certain features, text or objects optically project outward toward a user as described, for example, at p. 5, lines 30-33 and page 7, lines 23-25 of the application.

Claim 3

Applicant respectfully submits that Claim 3 is also patentable over the cited references as neither reference teaches or suggests that the first and second displays are linked to simultaneously display related incoming communication data.

Claim 10

Applicant respectfully submits that Claim 10 is also patentable over the cited references as neither reference teaches that the visual and textual data comprises incoming or outgoing communication data.

Claim 13

Applicant respectfully submits that Claim 13 is also patentable over the cited prior art as neither teaches or suggests that the second display provides visual and textual data and that the first display is adapted to selectively present a subset of the data provided by the second display, and wherein the first and second displays are interactively communicating during the presenting steps.

Claim 15

Applicant respectfully submits that Claim 13 is also patentable over the cited prior art as neither teaches or suggests that the first display is configured to selectively optically block the second display from external viewing while the portable communications device is operating to receive and make telephone calls and download data.

Claim 16

Applicant respectfully submits that Claim 16 is also patentable over the cited prior art as neither teaches or suggests that the first and second displays are linked to simultaneously display related incoming or outgoing communication content.

Claim 17

Applicant respectfully submits that Claim 17 is also patentable over the cited prior art as neither teaches or suggests that the assembly is configured so that content within an application on the second display can be navigated by electronically selecting a feature, text or indicia using the first display.

Claim 18

Applicant respectfully submits that Claim 18 is also patentable over the cited prior art as neither teaches or suggests that the first and second displays are configured to cooperate to provide contrast and 3D effect to a user so that certain features, text or objects optically project outward toward the user.

Claim 22

Applicant respectfully submits that Claim 22 is also patentable over the cited prior art as neither teaches or suggests that, in operation, the first display is configured to illuminate pixels in a manner that allows the user to view through the illuminated pixels to electronically access menu items and data on the second display while user input text or incoming or outgoing messages can be displayed on the first display.

Claim 47

Applicant concedes that the use of color graphic displays and monochromatic displays are known. However, Applicant also submits that the combination of the two types of displays as claimed is novel and non-obvious over the cited prior art and, absent the teachings of the instant invention, one of skill in the art would not have combined the references as alleged.

For at least the features noted above, Applicant respectfully submits that the affected claims are patentable over Seymour and Bell.

B. The Rejections Based on Seymour, Bell and Ericsson.

The Action rejects Claims 7, 21 and 31 as being obvious over Seymour in view of Bell and further in view of U.S. Patent No. 6,130,665 to Ericsson ("Ericsson").

At page 11, the Action states that Wells discloses the method of Claim 1. Applicant presumes that this is an inadvertent remnant from a prior Office Action and will not address this issue further.

The Action then goes on to concede that Seymour and Bell fail to teach configuring the first and second displays to interactively communicate (in response to actions by the user). Nonetheless, the Action then opines that Ericsson teaches this claim element at Figure 4, col. 3, lines 56-67, where the overlay is the keyboard and the other display is entered information so the two displays "must communicate". The Action then concludes that it would have been obvious to one of skill in the art to combine features of the references "such that a user could input information into the PDA using a stylus where the input would take place on one display level to cause menu items or other information to be displayed onto the other display in order to allow for the user to view multiple sets of information at the same time in a compact area" (Action, p 11). Applicant respectfully disagrees.

Ericsson describes the use of a virtual keypad over underlying textual data using two overlying screens, but configures the screens to operate in a distinctly different manner from that of the instant invention. As noted above, Seymour is directed to enhancing information that a user can extract from displays (for memory retention, etc...see, ¶ 17) based on a premise of how humans process visual information (¶ 18). Bell teaches a PDA with a configuration which proposes to inhibit a loss of brightness. Although different features of the claimed invention may be found in different references, it is the claimed combination that is novel. There would have been no motivation to modify the display configuration of the combination of Seymour and Bell with the virtual keypad of Ericsson absent the teachings of the instant invention. Rather, the alleged motivation provided by the Action is based on the

teachings of the instant invention and hindsight rationale, and employs improper (unsupported) conclusory rationale.

Applicant respectfully reiterates that configuring the first and second displays to interactively communicate in response to actions by the user is patentable over the cited prior art.

C. The Rejections Based on Seymour, Bell, Ericsson and Solonen.

i. Claims 5-6 and 32-33

The Action opines that Ericsson discloses generating a message with text and cites to Figure 1 and col. 2, lines 29-42. Applicant reviewed this passage and, while this text describes a portable device, Applicant was unable to find any description regarding message generation at this citation. The Action goes on at p. 12 to concede that Seymour, Bell and Ericsson fail to teach generating/receiving a MMS message and parsing the data as claimed. However, the Action then states that U.S. Patent Application No. 2005/0195927 to Solonen ("Solonen") teaches this feature as well as dividing the text and data to present on a display (citing to ¶¶ 28-30).

Paragraph 28 describes a menu that includes elements to describe a given "feeling" with a message (noses, mouth expressions, jewelry). Paragraph 30 refers to Figure 2, which proposes a single display 200 with an image part and a text part. The image part is associated with a code of character symbols, which can generate a pattern in the image part.

The Action thus alleges that it would have been obvious to use the image splitting method of a MMS message with the "method taught by the combination of Seymour, Bell et. al. and Ericsson such that the text data and visual data would be located on different display screens in order to provide a more advanced pattern which is simple, uses little memory, and is easily transferred between terminals even with limited capacity" (Action, p. 13).

While these may be advantages associated with the claimed invention, the Action appears to provide motivation to combine four different prior art documents that operate distinctly differently to find the claimed invention obvious and does so based on conclusory motivations to combine, without support, which is simply improper.

Even combined, the four-way combination with Solonen would configure a user generated message with the image part **201** and the adjacent the text part **202 side by side on a single-level display screen**. *See* Solonen, Figure 2. Furthermore, no motivation exists to display the image part **201** behind the text part **202,** as such a combination would appear to clutter the display **200** and inhibit the user's ability to "chat" with other users as desired by Solonen. *See* Solonen, Figure 2 and paragraph [0030].

Moreover, even combined, the cited references do not yield the claimed invention. Ericsson proposes only a "virtual keypad" on a thin overlay which displays a "picture keypad" and states that entered information may be displayed on the same parts of the screen but in "different fashions." Ericsson, col. 1, lines 56-67, col. 3, lines 60-62 (emphasis added). Thus, Applicant submits that the proposed Ericsson keypad is a static display of text over a display with text. Furthermore, Applicant submits that assuming, *arguendo*, that the cited references could be properly combined, the cited references in combination with Solonen would yield a device that can display a static image of a keypad over an MMS message on one layer rather than a device that can dynamically parse communication data, much less incoming data onto two displays.

Accordingly, Applicant respectfully submits Claims 5-6 and 32-33 are patentable over the cited references for at least these additional reasons.

D. The Rejection of Claims 9, 12 and 23-25 Based on Seymour, Bell and Yamaguchi.

The Action rejects Claims 9, 12 and 23-25 based on Seymour and Bell in view of U.S. Patent No. 6,275,932 to Yamaguchi et al. ("Yamaguchi"). With reference to Claims 9 and 23, the Action concedes that Seymour and Bell fail to teach that the first display operates in a screensaver mode during periods of non-active use, and with reference to Claims 12, 24 and 25, the Action concedes that they fail to teach electrically locking access to the device by providing a password restricted access entry region on the first display and optically blocking the remainder of the first display while the second display carries text and visual data thereon to inhibit unauthorized use of the device. However, the Action also states that Yamaguchi

discloses these features (citing col. 11, lines 6-12). The Action then concludes that it would have been obvious to combine the teachings of Wells with those of Yamaguchi to "lock and protect the device from unauthorized users" and "block the information on the second display." The Action, p. 14-15. Applicant respectfully disagrees.

Yamaguchi is directed to a laptop computer and merely proposes a "security utility" with a password. Some embodiments of the invention allow the upper display to visually impede the viewability of the underlying display to avoid allowing unauthorized users or viewers to see the action or activity on the underlying display. The device, via the upper display or other indicator, can notify a user visually or audibly of an ongoing event or action on the second display while not allowing an unauthorized user to automatically view or access the confidential/restricted information and may use authorized access (password or bioinformatic protected access) to restore viewability. Thus, if a device is lost, set aside or otherwise left in a public space, access to a phone book of contacts or messaging is impeded.

Claims 9 and 12

Claims 9 and 12 both recite that the first display is configured to operate in a screensaver mode during periods of non-active use while the device is operating to receive and make telephone calls and download data. Applicant respectfully submits that even combined, the three references fail to teach or suggest at least the emphasized features and submits that Claims 9 and 12 are patentable over the cited prior art.

Claims 23 and 25

Claims 23 and 25 recite that the first display is configured to electrically lock access to the second display **while the second display carries text and visual data thereon** and while the device is operating to receive and make telephone calls and download data to thereby inhibit unauthorized use of the device.

Applicant respectfully submits that even combined, the three references fail to teach or suggest at least the emphasized features. Applicant submits that Claims 23 and 25 are patentable over the cited prior art.

E. Rejection of Claim 11 Based on Seymour, Bell and Ellenby.

The Action concedes that Seymour and Bell fail to teach that the text includes map directions and an image that comprises a map corresponding to a location of interest. Nonetheless, the Action states that U.S. 6,396,475 to Ellenby et al. ("Ellenby") proposes this feature and opines that it would have been obvious to display them on separate display screens so that they can be viewed simultaneously. Applicant respectfully disagrees.

The Action states that in Figure 1 of Ellenby, item 4 is the text and item 2 is the image. However, item 2 is a map but item 4 is the "selected object", not map directions that scroll on the display; notably, each is presented on a single display. As the text consists of only one line, there is no need to present it over the map on a separate display and one of skill in the art would not have combined the references in the manner alleged absent the teachings of the instant invention.

Applicant respectfully submits that Claim 11 is patentable over the cited prior art. Claim 11 has been amended into independent form; as such, Applicant submits Claim 11 is in condition for allowance, which action is respectfully requested.

F. Rejection of Claim 14 Based on Seymour, Bell and Huffman.

The Action concedes that Seymour and Bell fail to teach that textual data on the first display comprises data from a digital book or article while the visual data is video clips, images or pictures of the article or book. However, the Action then states that U.S. 5,661,635 to Huffman et al. (Huffman) teaches this feature and opines that it would have been obvious to combine the digital book of Huffman with the alleged Seymour and Bell combination to "view the images and text of the digital book at the same time" (Action, page 17). Applicant respectfully disagrees.

Huffman proposes a conventional side-by-side book layout that can display neighboring pages of books or graphical information on one touch screen 132 and touch screen 130 can display text (col. 5, lines 35-40). In contrast to the Action's proposition of motivation, a user can already view the images and text at the same time in the Huffman

display, and there is no motivation to combine this reference with the alleged Bell and Seymour references, absent the teachings of the instant invention.

Applicant respectfully submits that Claim 14 is patentable over the cited references.

G. The Rejections of Claims 37-39, 40-42 and 47.

Applicant directs the Examiner's attention to these claims and to the arguments made above with respect to claims reciting similar features.

II. The Claimed Combination of Elements

Applicant respectfully reiterates the fact that the invention employs known elements does not preclude patentability. It is the claimed combination of elements which is the proper basis for review. "Virtually all inventions are necessarily combinations of old elements." *Panduit* at 1575 (citing *Medtronic, Inc. v. Cardiac Pacemakers, Inc.*, 220 USPQ 97, 99-100 (Fed. Cir. 1983)). Indeed, the Federal Circuit has stated (in regard to an obviousness-type invalidity challenge to an issued patent) that "[t]he notion, therefore, that combination claims can be declared invalid merely upon finding similar elements in separate prior patents would necessarily destroy virtually all patents and cannot be the law under the statute, §103." *Panduit* at 1575.

As recently affirmed by the Court of Appeals for the Federal Circuit, to support combining references in a §103 rejection, evidence of a suggestion, teaching, or motivation to combine must be clear and particular, and this requirement is not met by merely offering broad, conclusory statements about teachings of references. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Further, "[i]t is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements." *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997) (emphasis added). The standard of obviousness is not whether, in hindsight, someone would have combined elements to form the invention. *W.L. Gore & Associates v. Garlock, Inc.*, 220 USPQ 303, 312-313 (Fed. Cir. 1983). Further,

simplicity alone cannot be determinative of obviousness. *Gentry Gallery, Inc. v. Berkline Corp.*, 45 USPQ2d 1498 (Fed. Cir. 1998).

Applicant respectfully submits that one of skill in the art would not have been motivated to combine the teachings of the cited references, much less the features found in three or even four different references in a manner that would render the claimed invention obvious, absent the teachings of the instant invention.

III. New Claims

Applicant has added new Claims 48-50 to form a more complete claim set. Applicant respectfully submits that the claims are supported by the application (*see, e.g.*, p. 9, lines 11-20).

CONCLUSION

Accordingly, Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

Julie H. Richardson
Registration No.: 40,142
USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

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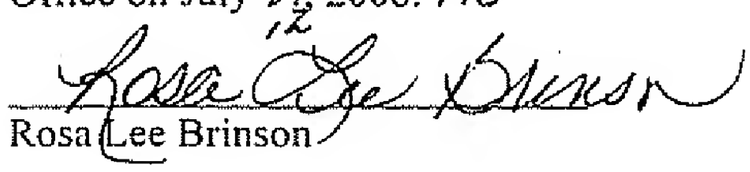

Rosa Lee Brinson